

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
W. R. GRACE & CO., *et al.*,) Case No. 01-01139 (JKF)
) (Jointly Administered)
Debtors.)
) 3/17/08 Agenda Item Nos.: 11 and 12
) Related Docket Nos. 14598, 15130, 17328,
17506, 17903, and 18174 ~~and 18476~~

**ORDER REGARDING CLAIM NUMBERS 9778 (ALLEGHENY
CENTER ASSOCIATES), 11036 (TWO ALLEGHENY CENTER)
AND 11037 (ONE ALLEGHENY CENTER)**

WHEREAS, on February 16, 2007, Debtors filed a Motion and Memorandum for an Order Pursuant To F.R.B.P. 7056 Disallowing and Expunging Sixteen (16) Time-Barred Asbestos Property Damage Claims [Docket No. 14598] ("Debtors' Summary Judgment Motion") seeking to disallow and expunge, *inter alia*, Allegheny Center Associates' Claim No. 9778 on statute of limitations grounds;

WHEREAS, Allegheny Center Associates filed no response to Debtors' Summary Judgment Motion and, on April 9, 2007, the Court entered an Order disallowing and expunging Claim No. 9778 as barred by the applicable statute of limitations [Docket No. 15130];

WHEREAS, on November 9, 2007, Debtors filed a Motion to Disallow and Expunge The Allegheny Center Duplicate Claims [Docket No. 17328] seeking to disallow and expunge Claim No. 11036 (Two Allegheny Center) and Claim No. 11037 (One Allegheny Center) as duplicates of Allegheny Center Associates' Claim No. 9778;

WHEREAS, on November 30, 2007, Speights & Runyan filed a Memorandum in Opposition to Debtors' Motion to Disallow and Expunge Claim Nos. 11036 and 11037 as Duplicate Claims [Docket No. 17506];

WHEREAS, on January 28, 2008, Allegheny Center Associates filed a Motion for Relief From Order of Dismissal [Docket No. 17903] seeking to set aside the Court's April 9, 2007 Order disallowing and expunging Claim No. 9778;

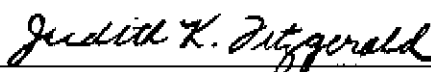
WHEREAS, on February 29, 2008, Debtors filed a Response to Claimant Allegheny Center Associates' Motion for Relief From Order of Dismissal [Docket No. 18174];

WHEREAS, the Court heard arguments on March 17, 2008 on Debtors' Motion to Disallow and Expunge Claim Nos. 11036 and 11037 as Duplicate Claims [Docket No. 17506] and on Allegheny Center Associates' Motion for Relief From Order of Dismissal [Docket No. 17903].

IT IS HEREBY ORDERED:

1. Allegheny Center Associates' Motion for Relief From Order of Dismissal [Docket No. 17903] is denied; service of Debtors' Summary Judgment Motion was proper and the Allegheny Center Associates' failure to respond to Debtors' Summary Judgment Motion was not due to excusable neglect;
2. Debtors' Motion to Disallow and Expunge The Allegheny Center Duplicate Claims [Docket No. 17328] is continued to a date to be determined;
3. Debtors' statute of limitations defense to Claim No. 9778 is preserved and applies to Claim Nos. 11036 and 11037 and Debtors are entitled to pursue discovery with respect to the statute of limitations defense on those claims; and
4. Counsel are to confer and agree on a discovery schedule with respect to Claim Nos. 11036 and 11037.

Dated: April 16th, 2008


Honorable Judith K. Fitzgerald
United States Bankruptcy Judge 